

DAVIS-BACON GUIDANCE FOR WYOMING SRF PROJECTS

September 2014

This is a summary only and should not be considered comprehensive.

Bidding/Contract Language:

The separate boilerplate language guidance documents (available on our main SRF webpage, <http://deq.state.wy.us/wqd/www/SRFIndex.asp>) include the Davis-Bacon language that must go in the bidding/contract documents. They also discuss the wage decision that must be included in those documents and the need to check for updates during the bid process. Contractor and Owner/Engineer both need to read the bidding/contract language.

Project Site Postings:

Davis-Bacon Poster: <http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>

Wage Decision: use wage decision included in contract documents

Contractor needs to post both the Davis-Bacon Poster and the Wage Decision at the project site, at a location easily visible to the workers. Owner/Engineer needs to make sure this happens.

Payrolls, form WH-347 and instructions:

<http://www.dol.gov/whd/forms/wh347instr.htm>

-Contractor and subcontractors must turn in payrolls weekly (to Owner/Engineer) and pay their workers weekly. They can use this payroll form or their own format that provides equivalent information and certification. They should follow the instructions given. (Note: Do not list full social security numbers unless we request specifically.) They should turn in payrolls within 7 days of issuing pay each week.

-Owner/Engineer needs to review all payrolls when they are submitted. If you find problems, particularly possible underpayments, get them resolved as soon as possible.

Interviews, form SF-1445:

<http://www.gsa.gov/portal/forms/download/115910>

-Owner/Engineer needs to conduct interviews regularly. Use this form or equivalent. Do interviews at least once per month.

-If prime contractor is onsite during the month, interview at least one of its employees in each classification that is working during the month. For example, if the prime has equipment operators, laborers, and truck drivers working onsite this month, then interview at least one equipment operator, one laborer, and one truck driver this month.

-Same applies to each subcontractor. Interview at least one employee from each classification from each subcontractor that is onsite during the month.

-If a classification has more than 5 employees, interview more than one of them each month.

-Try to interview different employees each month if possible, but repeat employees if needed.

-If employee doesn't know an answer, note that instead of just putting in a guess like it's a fact.

-Cross check all interviews versus the payrolls. Resolve any discrepancies as soon as possible. Person that does cross checking should fill out bottom of interview form.

-If you are having problems with compliance with a particular contractor, or reason to suspect problems, do more interviews and do them more often.

-It is not wrong to do more than the minimum number of interviews. When in doubt, do more.

SRF Inspections, Payment Holds:

We (Wyoming SRF Program) will inspect the project site and the Owner/Engineer's records, particularly the Davis-Bacon records, at least once during construction. We may do it more than once in some cases, depending on circumstances. If we find problems, we will stop making SRF payments to Owner until all problems are resolved. (Office of State Lands may also put other SLIB funding sources for the project on hold.) For best results, solve all your problems as you go, before we ever arrive onsite. Make sure everyone is paid at least the required minimums, and make sure the Owner/Engineer records contain everything needed to show your project is in compliance with the regulations. Avoid the common problems listed further below.

Other information sources:

- USDOL Prevailing Wage Resource Book: <http://www.dol.gov/whd/recovery/pwrb/toc.htm>
- USDOL, Field Operations Handbook Chap. 15: http://www.dol.gov/whd/FOH/FOH_Ch15.pdf
- USDOL Davis-Bacon websites: <http://www.dol.gov/compliance/guide/dbra.htm>,
<http://www.dol.gov/compliance/laws/comp-dbra.htm>

-Wyoming SRF Program:

Contact us if you have specific questions. We want to help you be in compliance ahead of time, rather than have to hold payments because of noncompliance after we do an inspection.

However, please route your questions through normal channels (i.e. sub to prime, prime to engineer/owner, engineer/owner to SRF) if possible, to keep all parties properly informed.

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Common Problems:

These are some common problems we see during inspections (and hold payments because of):

- employee underpaid compared to wage decision
- employee misclassified and therefore underpaid
- information on payroll doesn't match information from interview, especially regarding wage rate, number hours worked last day on job before the interview, and/or classification(s) for the type of work the employee was doing
- missing week of payrolls, missing certain workers on payrolls, missing subcontractor payrolls
- no or too few interviews for a classification of workers and/or for subcontractor workers
- no documentation of what actual (non-cash) fringe benefits employees receive and how the hourly equivalent was determined (need to have this on file if using to meet Davis-Bacon)
- classifying employee as apprentice when they are not USDOL registered as such
- no USDOL certificate for an apprentice (need to have one on file for each apprentice)
- no calculation of how a certified apprentice's wages were determined (should be as described in apprenticeship plan, usually percentage of base wage rate, plus either full fringe rate or fringes described in plan, but details vary)
- number of workers or amount of time in a classification doesn't make sense based on type of work going on (such as missing or low numbers in a classification you know is needed, or disproportionate number of common laborers or other lower paid workers versus higher paid workers)
- poster and/or wage decision not posted at project site
- using wrong wage decision (use only the wage determination in contract documents)